

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

RAYMOND DOYLE GILBERT, #2250358	§	
	§	
Petitioner,	§	
	§	
v.	§	Case No. 6:22-cv-146-JDK-KNM
	§	
DIRECTOR, TDCJ-CID,	§	
	§	
Respondent.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Raymond Doyle Gilbert, a Texas Department of Criminal Justice prisoner proceeding pro se, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case. Docket No. 4. On June 13, 2023, Judge Mitchell issued a Report recommending that the petition be dismissed with prejudice as barred by the applicable statute of limitations and that a certificate of appealability be denied. Docket No. 26. Petitioner filed written objections on August 3, 2023, after obtaining an extension of time to object. Docket Nos. 28, 29.

This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other*

grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


Petitioner's objection in this case is without merit. His primary point is to contest the involvement of the Magistrate Judge in this case. But this action was automatically referred to the undersigned Magistrate Judge as authorized by the Federal Magistrate Act of 1979, 28 U.S.C. § 636(b)(1), pursuant to the standard practice of this Court. That statute gives this Court the authority to refer any non-dispositive, pretrial matter to the U.S. Magistrate Judge for determination and designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for the disposition of a matter to the judge of the court. *Jackson v. Cain*, 864 F.2d 1235, 1242 (5th Cir. 1989). No consent from the parties is required for such referral. *Newsome v. EEOC*, 301 F.3d 227, 230 (5th Cir. 2002) ("The consent of the parties is not required under this section."). Accordingly, the Magistrate Judge's actions in this case have been perfectly proper and in keeping with the law and this Court's referral.

The remainder of Petitioner's objection simply reargues the timeliness of his petition but does not persuade the Court that his filing was timely in light of the record and briefs in this case.

Having conducted a de novo review of the Report and the record in this case, the Court has determined that the Report of the United States Magistrate Judge is correct, and Petitioner's objections are without merit. The Court therefore **OVERRULES** Petitioner's objections (Docket No. 29) and **ADOPTS** the Report and

Recommendation of the Magistrate Judge (Docket No. 26) as the opinion of the District Court. Petitioner's petition for habeas corpus is hereby **DISMISSED** with prejudice as untimely. Further, the Court **DENIES** a certificate of appealability. Any pending motions are **DENIED** as moot.

So **ORDERED** and **SIGNED** this 11th day of **August, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE